

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
RESEARCH TRIANGLE PARK, NC 27711**

December 5, 1996

**MEMORANDUM**

**SUBJECT:** Implementation of RCRA Subpart CC Standards

**FROM:** Bruce C. Jordan, Director  
Emission Standards Division (MD-13)

**TO:** See Below

The purpose for this memo is to inform you that the Emission Standards Division has become aware of certain errors in the recently promulgated air emission standards and to request that you alert the appropriate Regional staff, and each of your State representatives to convey the following information.

On November 25, 1996, the EPA promulgated final amendments to the air standards under the Resource Conservation and Recovery Act (RCRA) which regulate emissions from treatment, storage, and disposal facilities (TSDF). In reviewing the published Federal Register notice, we have found that certain portions of the published notice do not correctly convey our intent for the final standards. We plan to publish a technical amendment notice to correct these errors in the near future. However, certain of these provisions relate to the effective date of December 6, 1996, and I am anxious to alert you to them more quickly.

The October 6, 1996 amended rules allow facilities to use delayed implementation schedules, under certain conditions, for "any technical requirement of Subparts AA, BB, or CC." As was explained in the February 9, 1996 technical amendment notice, at 61 FR 4905, it is the EPA's intent that implementation schedules could be used where facilities require additional time to replace or remove hazardous waste management units, or to modify their production or treatment processes to obviate the need for such units. Although not expressly stated in the preamble, it is our intent that such schedules may also be used to allow facilities to modify their production or treatment processes to satisfy exemption criteria under amended sections 265.1080 or 265.1083.

The EPA explained in the preamble of the October 4, 1996 amended rules that all substantive requirements of the rules will take effect on December 6, 1996. However, the rules still contain a few inadvertent references to the earlier date of October 6, 1996 (e.g., 40 C.F.R. sections 264.1080 (b)(1),(c), 265.1080 (b)(1), (c), 265.1082(a)). It was not EPA's intent to make any of the final rule provisions effective prior to December 6, 1996, or to make them apply retroactively.

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The regulatory text regarding waste determination procedures, found at sections 264.1083(a) and 265.1084(a) is potentially misleading and could be interpreted to indicate that a waste determination is required for all wastes, regardless of whether they are managed in a unit complying with the air emission control requirements of the subpart CC standards. As was explained in the preamble of the February 9, 1996 technical clarification notice, at 61 FR 4906, a waste determination is not required for any waste placed in a unit using the required air emission controls.

The preamble text to the November 25, 1996 regulation states that under certain circumstances, tanks or surface impoundments used for biological treatment of hazardous waste are exempt from the control requirements of subpart CC (see 61 FR at 59941). However, the regulatory text at sections 264.1082(c)(3) and 265.1083(c)(3) which contain this exemption inadvertently omit the reference to surface impoundments. The EPA plans to issue a technical amendment in the near future to correct this error by inserting the words "or surface impoundment" after the word tank in those two sections.

If you have any questions about these provisions, please contact Michele Aston, at (919) 541-2363.

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